

# **General Terms of Trade**

## **of Akzo Nobel Coatings CZ, a.s.**

### **Powder Coatings Division**

#### **I**

#### **Introductory Provisions**

These General Terms of Trade (hereinafter only referred to as “Terms”) constitute an integral part of “Agreements on trade terms”, partial sales contracts or other sales contracts (hereinafter only referred to as “Contract”) in which references to the Terms are made in accordance with Section 273, subsection 1, of the Commercial Code, and which are concluded between Akzo Nobel Coatings CZ, a.s., a company with the registered office at Praha 4, Na Pankráci 1683/127, Company Reg. No.: 60792213, as a seller (hereinafter only referred to as “**Seller**”) and a purchaser stated in the relevant Contract (hereinafter only referred to as “**Purchaser**”).

#### **II**

#### **Delivery terms**

##### **1. Time, place and method of delivery of goods**

- 1.1. The place of delivery is on the business premises of the Purchaser (warehouse) at the address specified in the Contract (delivery note) or on any other place agreed by the contracting parties in the Contract (delivery note).
- 1.2. Delivery of goods is completed by handing and accepting the goods by the Purchaser or a carrier authorized by the Purchaser on the Purchaser’s business premises (warehouses) or on any other place agreed, and by confirming the delivery in the respective delivery note.
- 1.3. The Purchaser is obliged to accept the delivered goods duly and in time and to mark the acceptance in the delivery note any time within the working hours and on the date of agreed delivery. The Purchaser is obliged to confirm the acceptance of goods in the delivery note in such a way that he attaches his signature, name of an authorized employee or a carrier (in block letters or printed) who takes the delivery over, official stamp and date of actual delivery of goods. The Purchaser or an authorized carrier is obliged to accept even a partial delivery of goods. In case the consignment does not correspond to the list of items stated in the delivery note the disputed items (differences in quantity or quality) must be marked into the delivery note by the Purchaser in the presence of the driver. One copy of the delivery note remains with the Seller, the second one goes to the Purchaser.
- 1.4. The Seller is entitled to refuse to deliver goods to the Purchaser in the time during which the Purchaser is in default of any payment, or if there exist a reasonable concern about the Purchaser’s capability to fulfil his obligations towards the Seller.
- 1.5. The Seller is obliged to deliver goods properly packed on wooden pallets of the dimensions 80x120 cm (if required by the delivery volume) for the purpose of transport performed in a usual way for such a kind of article in the trading transaction. The Seller is not obliged to take the pallets from the Purchaser back. The Seller is entitled to demand payment in the amount of CZK 170.00 excl. VAT per 1 piece, for those pallets on which the goods is supplied.
- 1.6. In case of an own transport arranged by the Purchaser it is necessary to notify the Seller of number of pallets and total quantity of goods to be loaded in kg at least one day before the planned loading.

#### **III**

#### **Reservation of property and passage of risk of damage**

1. Proprietary right to the goods delivered by the Seller to the Purchaser passes to the Purchaser only by complete and due payment of the goods as per the relevant invoice.

2. The Purchaser is obliged to treat the goods of the Seller so that it will not be damaged during storage nor handling.
3. In case of any default in payment for the goods the Seller is entitled to require returning the goods which is the Seller's property from the Purchaser. The Purchaser agrees to release such goods without any undue delay. The Purchaser is responsible for all costs relating to the application of the reservation of property.
4. Risk of damage possible incurred to the goods passes to the Purchaser by the moment of receipt of the goods from the Seller.

## IV

### Product liability and warranty claim

#### **1. Examination of the goods by the Purchaser**

- 1.1. The Purchaser is obliged to examine the goods immediately at the procedure of acceptance with due diligence corresponding to the customs of trade used for the given kind of the goods, in particular check the quantity, apparently intact state of the goods and quality.
- 1.2. The Purchaser is obliged to store or keep the delivered goods under the conditions regularly applied to keeping of this kind of goods till the date of actual payment of the purchase price in full. The Seller may, for this purpose, monitor the mode of storing the goods and the Purchaser is obliged to allow the Seller to execute it. This clause 1.2. applies also to the goods under the warranty claim procedure.

#### **2. Apparent defects and relating warranty claim**

- 2.1. The Purchaser is obliged to record any apparent defects found at the acceptance procedure in the delivery note, mainly missing goods, quality defects, etc.
- 2.2. Delivery of lower quantity of goods is not considered an apparent defect in quantity if this quantity is in agreement with the data stated in the delivery note or delivery capabilities of the Seller. In such a case it is considered a partial delivery or a part failure to perform the Contract.
- 2.3. Delivery of goods showing a weight deviation within +/- 1.5 % of declared net weight is not considered an apparent defect in quantity.

#### **3. Warranty and warranty period**

- 3.1. The Seller provides the Purchaser with a warranty of quality of the supplied goods according to the valid Czech legal order and the warranty periods specified in the product technical sheets.

#### **4. Latent defects and relating warranty claim**

- 4.1. Latent defects, i.e. defects non-detectable during a technical inspection of the goods at the acceptance procedure, must be claimed by the Purchaser in writing within 24 hours of their detection, or the moment when they could be detected while observing the principles of due diligence, or receipt of warranty claim from a third person.
- 4.2. The defects may be claimed only if the storage conditions for the delivered goods, such as dry warehouses at the temperature within the range + 5° C to + 25° C and the recommended application as specified in the product technical sheet and on the product package are observed.
- 4.3. However, the latent defects must be claimed within the end of the warranty period determined for the relevant goods.
- 4.4. Warranty claim is deemed timely filed if on the last day of the warranty period the claim is sent to the address of the Seller by the registered mail, e-mail or fax to the contact person responsible. Periods calculated in days start from the date following the event decisive for their commencement.
- 4.5. The Purchaser's warranty claim for the product defects must contain in particular the following elements: purchase order identification and Contract identification, invoice no., description of the defect, date of detection, way of becoming evident, requirement of a manner of settlement of the warranty claim. Further, all necessary attachments proving the existence of the defect (e.g.

delivery note, warranty claim report, certificate of the defect detection by an inspection body, etc.) must be enclosed.

## **5. Claims resulting from product liability**

- 5.1. In case of any product liability not having been claimed yet in writing under warranty by the Purchaser, but already recognized by the Seller as legitimate, the Seller himself may remove the defect without any undue delay by a delivery of substituted goods and replacement of the defective goods with the new goods free from any defect and/or delivery of any missing quantity.
- 5.2. In case of delivery of substituted goods and replacement of the defective goods the Purchaser is obliged to return the claimed goods to the Seller in the condition and quantity as they were accepted, unless the goods have been consumed. All costs relating to the replacement and returning of the goods are borne by the Seller.
- 5.3. In case of any defects that have been duly and timely claimed by the Purchaser and recognized by the Seller as legitimate the Purchaser is entitled to demand removal of such defects, in the following priority order:
  - a) delivery of missing goods if it is possible within a reasonable time and purposeful;
  - b) adequate discount of the purchase price if the defects do not obstruct their usual usage;
  - c) replacement of the defective goods with the goods free from any defect; or
  - d) withdrawal from any partial Sales Contract concerning the defective goods and refund of purchase price only if none of the above stated methods of warranty claim procedure can be applied.
- 5.4. Chosen method of warranty claim procedure and removal of the defect must not incur extra unreasonable expenses to the Seller.
- 5.5. Any possible amount of damages resulting from the product defects is limited by the purchase price (excl. VAT) of the defective goods in question that was paid by the Purchaser for the goods delivered by the Seller. The Seller is obliged to compensate for a loss of profit of the Purchaser or contractual penalties or damages claimed by any third party against the Purchaser.

## **V**

### **Rights and obligations of the Purchaser**

#### **1. The Purchaser undertakes:**

- 1.1. to accept goods delivered by the Seller;
  - 1.2. to make payments of any payables due to the Seller within the time of payment;
  - 1.3. to secure correct storing and transport of the goods according to the Seller's instructions and in a way to maintain a good quality of the goods and to prevent from any damages to the goods as a consequence of incorrect storage or transport;
  - 1.4. to acquaint all authorized employees with the contractual terms and conditions agreed with the Seller, in particular the terms and conditions concerning manner of placing orders and filing warranty claims.
2. The Purchaser is obliged to protect trademarks, trade names of products and corporate name "Akzo Nobel Coatings CZ, a.s.". The Purchaser is not allowed to use these trademarks, trade names of products and corporate name in relation to any other business activity carried out by the Purchaser. The Purchaser shall always perform his business activity in such a way that it will protect the goodwill, the credit of the Seller and the goods; the Purchaser shall refrain from any deceptive, misleading and immoral conduct or advertising that will or could damage the Seller or the goods.
  3. No rights and obligations of the Purchaser arising from the Contract or these Terms may be passed nor assigned to other party without a prior written approval from the Seller.
  4. The Purchaser undertakes to pay each invoice in full within the time of payment, on the due date at the latest. The payment is considered made by the moment of crediting the due amount to the account of the Seller or in case of collect-on-delivery paid to the authorized carrier.

## VI Rights and obligations of the Seller

### 1. **The Seller undertakes:**

- 1.1. to deliver goods to the Purchaser properly according to the Contract provided that no serious operational reasons impede the delivery;
- 1.2. to inform the Purchaser by e-mail or by phone immediately after he discovers he will not be able to deliver the ordered goods to the Purchaser for whatever reasons;
- 1.3. to ensure that the goods comply with the generally binding legal regulations and standards;
- 1.4. at the written Purchaser's request to submit the attest and/or material safety data sheet, or "Quality Certificate" at the first delivery of goods.;
- 1.5. to notify the Purchaser of any alterations relating to the Contract performance, mainly to inform the Purchaser of every change in the range of assortment or pricelist catalogue;
- 1.6. to provide information about development and preparation of new goods.

### 2. **The Seller is entitled:**

- 2.1. to monitor the mode of transporting and storing the goods;
- 2.2. at the Seller's own discretion to verify fulfilment of the Purchaser's obligations specified by the Contract and these Terms;
3. The contracting parties agree that upon a call made by the Seller they shall realize a joint meeting within 10 working days of such a call. Performance of the Contract and these Terms, further cooperation, adoption of necessary actions or required amendments to the Contract, any of these subjects may be included in the agenda of this meeting.
4. The contracting parties may agree that the Seller shall provide a technical assistance, an expert's consulting and training of employees and co-workers of the Purchaser for the purpose of deepening the cooperation and improving the competitiveness of the goods sale.

## VII Confidentiality agreement

1. The contracting parties undertake to keep confidentiality of any facts and information that form a trade secret of the other contracting party or are considered confidential information.
2. Trade secret includes any facts of commercial, trade, production and technical nature related to the Contract or the Terms and their implementation, having a material or intellectual value, not commonly available in the economic and business societies, which pursuant to the will of a contracting party should not be disclosed to any third party and such non-disclosure is ensured in a corresponding way. For the purpose of this Contract, any information meeting the foregoing definition which have been received from the other party under the Contract for the purpose of performance of the Contract or which will result from the Contract during the performance of the Contract or these Terms, mainly technical an production solutions and technical documentation.
3. Confidential information also mean any other information concerning the activity under the Contract and these Terms that are not deemed a trade secret but the relevant contracting party wishes to keep them in secrecy and marks them "confidential".
4. Trade secret or confidential information of either contracting party may be disclosed and used by the other contracting party (e.g. for business purposes, for publishing in a specialized brochure or public presentation) only upon a written approval of the entitled contracting party.

**VIII**  
**Final provisions**

1. In accordance with the provisions of Act no. 216/1994 Coll., any possible property disputes between the contracting parties arising from the relations to which these Terms apply shall be settled in the arbitration proceedings, excluding the courts of general jurisdiction, before a single arbitrator appointed by the president of the Arbitration Court of the Czech Republic (Arbitrážní soud České republiky o.s.), Reg. No. IČ 26988879 (hereinafter only “ASČR”), as required by the plaintiff. The application for the appointment an arbitrator and the respective action must be brought to ASČR to the address of the registered office stated also on [www.rozhodcidolozka.cz](http://www.rozhodcidolozka.cz). The arbitration proceedings are conducted in writing, without an oral hearing, the arbitration award does not need to be reasoned and the parties authorize the arbitrator to dissolve the dispute according to the principles of justice. A court fee for the arbitration proceedings is in the amount of 3 % of the value of the subject of dispute, however at least CZK 5,000.00, shall be paid to the arbitrator by the plaintiff at bringing the action and in case of bringing the mutual action as well as an objection against set-off, the fee is paid by the defendant. The arbitrator an attorney authorized by the arbitrator serves documents to the parties to the arbitration proceedings, directly or through the mediation of the mail services provider.
2. These Terms are an integral part of the Contract, provisions of which supersedes the text of these Terms.
3. Any alterations and amendments to these Terms may only be made in writing upon a mutual agreement of the contracting parties.
4. For the contracting parties these Terms are valid and effective from the moment of signing the Contract and the Purchaser confirms their binding effect by attaching his signature.

In ..... dated .....

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**Purchaser**